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of his life, and to give directions as to how his business and estate shall be managed, he is competent.

[Ed. Note.—For other cases, see Wills, Cent. Dig. §§ 96-100; Dec. Dig. § 50.* 13 Va.-W. Va. Enc. Dig. 710; 14 Va. W. Va. Enc. Dig. 1077; 15 Va.-W. Va. Enc. Dig. 1070.]

7. Wills (§ 55*)—Mental Capacity—Evidence.—To impeach a will on the ground that testator is incompetent, the incompetency must be clearly proved to exist.

[Ed. Note.—For other cases, see Wills, Cent. Dig. §§ 137-158, 161; Dec. Dig. § 55.* 13 Va.-W. Va. Enc. Dig. 713; 14 Va.-W. Va. Enc. Dig. 1077; 15 Va.-W. Va. Enc. Dig. 1070.]

8. Wills (§ 55*)—Mental Capacity—Sufficiency of Evidence.—Evidence held insufficient to show that a testator 86 years of age was incompetent to make a will.

[Ed. Note.—For other cases, see Wills, Cent. Dig. §§ 137-158, 161; Dec. Dig. § 55.* 13 Va.-W. Va. Enc. Dig. 713; 14 Va.-W. Va. Enc. Dig. 1077; 15 Va.-W. Va. Enc. Dig. 1070.]

Appeal from Chancery Court of Richmond.

Bill by John P. Wooddy and another against one Taylor, executor, and others, to set aside a will. From a decree sustaining the will, complainants appeal. Affirmed.

L. O. Wendenburg, of Richmond, for appellants.

A. W. Patterson and *S. S. P. Patteson,* both of Richmond, for appellees.

WRIGHT *v.* COMMONWEALTH.

March 13, 1913.

[77 S. E. 503.]

1. Grand Jury (§ 10*)—Special Grand Jury—Statute.—Under the express provisions of Code 1904, §§ 3975, 3978, special grand juries may be summoned and impaneled at any regular or special term of the court, when so ordered by the judge.

[Ed. Note.—For other cases, see Grand Jury, Cent. Dig. § 27; Dec. Dig. § 10.* 6 Va.-W. Va. Enc. Dig. 759.]

2. Criminal Law (§ 1034*)—Appeal—Review—Presentation of Questions below.—Under Code 1904, § 4016, providing that all felony cases shall be tried at the term at which the indictment is found, unless good cause for a continuance is shown, defendant, who offered no evidence in support of his motion therefor, nor made any claim that it would have enabled him to procure any evidence in his defense, and who during his trial did not avail himself of his oppor-

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

tunity to speak in his own behalf, could not complain, on appeal from a conviction, that his evidence was not before the court.

[Ed. Note.—For other cases, see Criminal Law, Cent. Dig. § 2659; Dec. Dig. § 1034.* 1 Va.-W. Va. Enc. Dig. 561.]

3. Criminal Law (§ 590*)—Grounds for Continuance—Preparation by Counsel.—Counsel's want of time to consult authorities on the law of the case is not sufficient ground to support a motion for a continuance.

[Ed. Note.—For other cases, see Criminal Law, Cent. Dig. §§ 1316, 1317; Dec. Dig. § 590.* 3 Va.-W. Va. Enc. Dig. 275; 14 Va.-W. Va. Enc. Dig. 241; 15 Va.-W. Va. Enc. Dig. 205.]

4. Criminal Law (§ 586*)—Continuance—Discretion of Court.—Where the facts, in a prosecution for rape, were few and simple, and public interests demanded a speedy trial, the overruling of a motion for a continuance and proceeding to trial within 48 hours was not an abuse of the trial court's discretion.

[Ed. Note.—For other cases, see Criminal Law, Cent. Dig. § 1311; Dec. Dig. § 586.* 3 Va.-W. Va. Enc. Dig. 272; 14 Va.-W. Va. Enc. Dig. 241, 15 Va.-W. Va. Enc. Dig. 205.]

5. Criminal Law (§ 603*)—Change of Venue—Grounds.—The opinion of accused that local prejudice exists is not sufficient to support his motion for a change of venue; but facts and circumstances must be shown satisfying the court that a fair trial cannot be had.

[Ed. Note.—For other cases, see Criminal Law, Cent. Dig. §§ 1348-1361; Dec. Dig. § 603.* 2 Va.-W. Va. Enc. Dig. 781; 14 Va.-W. Va. Enc. Dig. 209; 15 Va.-W. Va. Enc. Dig. 173.]

6. Criminal Law (§ 1166*)—Appeal—Harmless Error—Venue.—The Supreme Court of Appeals will not reverse the ruling of the court below refusing to order a jury from another county to try a criminal case, when it appears that an impartial jury was in fact obtained in the county fixed for the trial.

[Ed. Note.—For other cases, see Criminal Law, Cent. Dig. §§ 3100-3102, 3107-3113; Dec. Dig. § 1166.* 1 Va.-W. Va. Enc. Dig. 502; 14 Va.-W. Va. Enc. Dig. 91; 15 Va.-W. Va. Enc. Dig. 66.]

Error to Circuit Court, Appomattox County.

Alfred Wright was convicted of rape, and he brings error. Affirmed.

Duncan Drysdale, of Lynchburg, for plaintiff in error.

The Attorney General, for the Commonwealth.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.